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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,507	01/02/2002	Mathilde Benveniste	2000-0611 CIP	8744
26652	7590	12/15/2004	EXAMINER	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			TON, DANG T	
			ART UNIT	PAPER NUMBER
			2666	
DATE MAILED: 12/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/032,507

Applicant(s)

BENVENISTE, MATHILDE

Examiner

DANG T TON

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/2/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-97 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 51-63 is/are allowed.
- 6) ☒ Claim(s) 1-43, 45, 50 and 64-97 is/are rejected.
- 7) ☒ Claim(s) 44 and 46-49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/19/2003</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

1. The disclosure is objected to because of the following informalities:

Applicant should provide a status of copending application recited in the specification page 1.

Appropriate correction is required.

2. The information disclosure statement filed 1/02/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each other documents; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

5. Claims 1-41, 43, 50, and 64-97 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 4 , " the access network" has no antecedent basis. The same is true with the terms " the current congestion experienced" recited in claims 1-6 and 8-13 ; " the persistence probability " recited in claim 14 ; " the access network " recited in claims 23-24; " the packet waiting transmission " recited in claim 43; " the access network " recited in claim 50 ; " the latency jitter " recited in claims 64; " the traffic" and " the backoff counter" recited in claim 72; " the access port " recited in claim 80; " the current counter value" recited in claim 81; and " said multiplication product" recited in claims 85 and 87.

In claim 72, the terms within the parenthesis are not considered the claimed limitation. Applicant is suggested to remove the parenthesis. Similar problem exists in claim 75.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Chuah et al. ( EP 0994604 ).

For claim 23, Chuah et al. disclose a method and apparatus for random backoff based access priority comprising the steps of:

determining at a plurality of nodes in the access network, an urgency class of pending packets according to a scheduling algorithm ( see page 5 lines 45-49);

using class-differentiated arbitration times, as idle time intervals required before transmission is attempted ( see page 5 lines 50-52); and

assigning shorter arbitration times to higher urgency classes ( see page 5 lines 53-56).

For claim 24, Chuah et al. disclose a method and apparatus for random backoff based access priority comprising the steps of:

determining at a plurality of nodes in the access network, an urgency class of pending packets according to a scheduling algorithm ( see page 5 lines 45-49) ;

using class-differentiated arbitration times, as idle time intervals required before a backoff counter is decreased ( see page 5 lines 50-52) ; and

assigning shorter arbitration times to higher urgency classes ( see page 5 lines 53-56).

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah et al. in view of Reardon et al. ( 5,636,223).

For claims 42-43, Chuah et al. disclose all the subject matter of the claimed invention with the exception of the number of transmission attempts in a communications network. Reardon et al. from the same or similar fields of endeavor teaches a provision of the channel access attempts ( see box 319 in figure 3). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the number of transmission attempts as taught by Reardon et al. in the communications network of Chuah et al.

The number of transmission attempts as taught by Reardon et al. can be implemented/modified into the network of Chuah et al. by connecting the channel access attempts box 319 to box select one access channel ( box 504 in figure 5 of Chuah et al.).

Using the number of transmission attempts as taught by Reardon et al. in the communications networks of Chuah et al. being that it can provide more priority level to the subscriber had more number of transmission requests.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kuddles et al. ( 5,353,287) is cited to show a system which is considered pertinent to the claimed invention.

11. Claims 1-22,50,and 64-97 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

12. Claims 44 and 46-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 25-41 and 45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. Claims 51-63 are allowed.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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D. Ton

A handwritten signature in black ink, appearing to be 'D. Ton', written in a cursive style.

**DANG TON**  
**PRIMARY EXAMINER**